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Proposed Committee Substitute by the Committee on Banking and Insurance

1                                   A bill to be entitled  
2           An act relating to property insurance; amending s.  
3           624.408, F.S.; revising the minimum surplus as to  
4           policyholders which must be maintained by certain  
5           insurers; authorizing the Office of Insurance  
6           Regulation to reduce the surplus requirement under  
7           specified circumstances; amending s. 626.9744, F.S.;  
8           requiring insurers to use retail cost quotations or  
9           estimates based on current market prices in  
10          determining repair or replacement cost estimates;  
11          amending s. 627.062, F.S.; requiring that the office  
12          issue an approval rather than a notice of intent to  
13          approve following its approval of a file and use  
14          filing; prohibiting the Office of Insurance Regulation  
15          from, directly or indirectly, prohibiting an insurer  
16          from paying acquisition costs based on the full amount  
17          of the premium; prohibiting the Office of Insurance  
18          Regulation from, directly or indirectly, impeding the  
19          right of an insurer to acquire policyholders,  
20          advertise or appoint agents, or regulate agent  
21          commissions; authorizing an insurer to make a rate  
22          filing limited to changes in the cost of reinsurance,  
23          the cost of financing products used as a replacement  
24          for reinsurance, or changes in an inflation trend  
25          factor published annually by the Office of Insurance  
26          Regulation; providing that certain rate filings need  
27          not be certified by the chief executive officer or



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28 chief actuarial officer of an insurer; providing that  
29 an insurer may use this provision only if the increase  
30 from such filing and any other rate filing does not  
31 exceed 10 percent for any policyholder in a policy  
32 year; deleting provisions relating to a rate filing  
33 for financing products relating to the Temporary  
34 Increase in Coverage Limits; revising the information  
35 that must be included in a rate filing relating to  
36 certain reinsurance or financing products; deleting a  
37 provision that prohibited an insurer from making  
38 certain rate filings within a certain period of time  
39 after a rate increase; deleting a provision  
40 prohibiting an insurer from filing for a rate increase  
41 within 6 months after it makes certain rate filings;  
42 specifying the information that an insurer must  
43 include in a rate filing based on the change in an  
44 inflation trend factor published by the Office of  
45 Insurance Regulation; requiring that the office  
46 annually publish one or more inflation trend factors;  
47 exempting the inflation trend factors from rulemaking;  
48 providing that an insurer is not required to adopt an  
49 inflation trend factor; requiring the Office of  
50 Insurance Regulation to propose a plan for developing  
51 a website, contingent upon an appropriation, which  
52 provides consumers with information necessary to make  
53 an informed decision when purchasing homeowners'  
54 insurance; requiring that the Financial Services  
55 Commission review the proposed plan to implement the  
56 website; specifying matters that the Office of



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57 Insurance Regulation must consider in developing the  
58 website; deleting obsolete provisions relating to  
59 legislation enacted during the 2003 Special Session D  
60 of the Legislature; amending s. 627.0629, F.S.;  
61 providing legislative intent that insurers provide  
62 consumers with accurate pricing signals for  
63 alterations in order to minimize losses, but that  
64 mitigation discounts not result in a loss of income  
65 for the insurer; requiring rate filings for  
66 residential property insurance to include actuarially  
67 reasonable debits that provide proper pricing;  
68 providing for an increase in base rates if mitigation  
69 discounts exceed the aggregate reduction in expected  
70 losses; requiring the Office of Insurance Regulation  
71 to reevaluate discounts, debits, credits, and other  
72 rate differentials by a certain date; requiring the  
73 Office of Insurance Regulation, in consultation with  
74 the Department of Financial Services and the  
75 Department of Community Affairs, to develop a method  
76 for insurers to establish debits for certain hurricane  
77 mitigation measures by a certain date; requiring the  
78 Financial Services Commission to adopt rules relating  
79 to such debits by a certain date; deleting a provision  
80 that prohibits an insurer from including an expense or  
81 profit load in the cost of reinsurance to replace the  
82 Temporary Increase in Coverage Limits; amending s.  
83 627.4133, F.S.; authorizing an insurer to cancel  
84 policies after 45 days' notice if the Office of  
85 Insurance Regulation determines that the cancellation



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86 of policies is necessary to protect the interests of  
87 the public or policyholders; authorizing the Office of  
88 Insurance Regulation to place an insurer under  
89 administrative supervision or appoint a receiver upon  
90 the consent of the insurer under certain  
91 circumstances; amending s. 627.7011, F.S.; excluding  
92 the loss of a roof that is more than 20 years old from  
93 the losses that must be covered by a homeowner's  
94 policy on the basis of replacement costs; authorizing  
95 an insurer to pay the actual cash value for certain  
96 losses, but requiring the insurer to pay the  
97 reservation or holdback when the insured executes a  
98 contract to replace or repair a dwelling or property  
99 or provides a receipt to replace personal property;  
100 amending s. 627.7015, F.S.; requiring the Department  
101 of Financial Services to prepare a statement or  
102 information by rule which must be included in a notice  
103 by an insurer informing claimants of the right to  
104 participate in a mediation program; specifying  
105 documentation that an insurer and insured must provide  
106 to a mediator in a dispute over an estimate to repair  
107 or replace property; requiring the Department of  
108 Financial Services to adopt rules specifying the type  
109 of documentation that must be submitted during a  
110 mediation; defining the term "claim dispute" as it  
111 relates to disputes between an insurer and insured;  
112 amending s. 631.011, F.S.; redefining the term  
113 "affiliate" to include certain entities that retail,  
114 broker, administer, or underwrite insurance policies



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115 on behalf of an insurer; amending s. 631.021, F.S.;

116 providing that the Circuit Court of Leon County is the

117 venue for certain actions collateral to a delinquency

118 proceeding involving an insurer; providing that the

119 Circuit Court of Leon County has exclusive

120 jurisdiction to identify funds, assets, and property

121 belonging to certain entities placed under

122 receivership; amending s. 631.025, F.S.; specifying

123 the persons over which the court in a delinquency

124 proceeding has exclusive jurisdiction; providing an

125 effective date.

126

127 Be It Enacted by the Legislature of the State of Florida:

128

129 Section 1. Section 624.408, Florida Statutes, is amended to

130 read:

131 624.408 Surplus as to policyholders required; new and

132 existing insurers.-

133 (1) ~~(a)~~ To maintain a certificate of authority to transact

134 any one kind or combinations of kinds of insurance, as defined

135 in part V of this chapter, an insurer in this state shall at all

136 times maintain surplus as to policyholders at least ~~not less~~

137 ~~than~~ the greater of:

138 (a)1. Except as provided in paragraphs (e), (f), and (g)

139 ~~subparagraph 5. and paragraph (b)~~, \$1.5 million;

140 (b)2. For life insurers, 4 percent of the insurer's total

141 liabilities;

142 (c)3. For life and health insurers, 4 percent of the

143 insurer's total liabilities plus 6 percent of the insurer's



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144 liabilities relative to health insurance; or

145 ~~(d)4.~~ For all insurers other than mortgage guaranty  
146 insurers, life insurers, and life and health insurers, 10  
147 percent of the insurer's total liabilities.

148 ~~(e)5.~~ For property and casualty insurers, \$4 million,  
149 except property and casualty insurers authorized to underwrite  
150 any line of residential property insurance.

151 ~~(f)(b)~~ For a residential any property and casualty insurer  
152 not holding a certificate of authority before July 1, 2010 or  
153 December 1, 1993, \$15 million. the

154 (g) For a residential property insurer having a certificate  
155 of authority before July 1, 2010, \$5 million until July 1, 2015,  
156 and \$15 million after July 1, 2015. The office may reduce this  
157 surplus requirement if the insurer is not writing new business,  
158 has premiums in force of less than \$1 million per year in  
159 residential property insurance, or is a mutual insurance  
160 company. following amounts apply instead of the \$4 million  
161 required by subparagraph (a)5.:

162 ~~1. On December 31, 2001, and until December 30, 2002, \$3~~  
163 ~~million.~~

164 ~~2. On December 31, 2002, and until December 30, 2003, \$3.25~~  
165 ~~million.~~

166 ~~3. On December 31, 2003, and until December 30, 2004, \$3.6~~  
167 ~~million.~~

168 ~~4. On December 31, 2004, and thereafter, \$4 million.~~

169 (2) For purposes of this section, liabilities do shall not  
170 include liabilities required under s. 625.041(4). For purposes  
171 of computing minimum surplus as to policyholders pursuant to s.  
172 625.305(1), liabilities shall include liabilities required under



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173 s. 625.041(4).

174 (3) This section does not require any ~~No insurer shall be~~  
175 ~~required under this section~~ to have surplus as to policyholders  
176 greater than \$100 million.

177 (4) A mortgage guaranty insurer shall maintain a minimum  
178 surplus as required by s. 635.042.

179 Section 2. Section 626.9744, Florida Statutes, is amended  
180 to read:

181 626.9744 Claim settlement practices relating to property  
182 insurance.—Unless otherwise provided by the policy, if ~~when~~ a  
183 homeowner's insurance policy provides for the adjustment and  
184 settlement of first-party losses based on repair or replacement  
185 cost, the following requirements apply:

186 (1) When a loss requires repair or replacement of an item  
187 or part, any physical damage incurred in making such repair or  
188 replacement which is covered and not otherwise excluded by the  
189 policy shall be included in the loss to the extent of any  
190 applicable limits. The insured may not be required to pay for  
191 betterment required by ordinance or code except for the  
192 applicable deductible, unless specifically excluded or limited  
193 by the policy.

194 (2) When a loss requires replacement of items and the  
195 replaced items do not match in quality, color, or size, the  
196 insurer shall make reasonable repairs or replacement of items in  
197 adjoining areas. In determining the extent of the repairs or  
198 replacement of items in adjoining areas, the insurer may  
199 consider the cost of repairing or replacing the undamaged  
200 portions of the property, the degree of uniformity that can be  
201 achieved without such cost, the remaining useful life of the



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202 undamaged portion, and other relevant factors.

203 (3) In determining repair or replacement cost estimates,  
204 the insurer shall use only the following:

205 (a) The retail cost using quotations obtained by the  
206 insurer or insured from licensed contractors or retail  
207 establishments in the local market area; or

208 (b) Computer software or other databases that produce  
209 estimates based on market prices for products, materials, and  
210 labor in the local geographic region, if the pertinent portions  
211 of the valuation documents generated by a database are provided  
212 by the insurer to the first-party insured upon request.

213 (4)-(3) This section does shall not be construed to make the  
214 insurer a warrantor of the repairs made pursuant to this  
215 section.

216 (5)-(4) Nothing in This section does not shall be construed  
217 to authorize or preclude enforcement of policy provisions  
218 relating to settlement disputes.

219 Section 3. Section 627.062, Florida Statutes, is amended to  
220 read:

221 627.062 Rate standards.—

222 (1) The rates for all classes of insurance to which the  
223 provisions of this part are applicable shall not be excessive,  
224 inadequate, or unfairly discriminatory.

225 (2) As to all such classes of insurance:

226 (a) Insurers or rating organizations shall establish and  
227 use rates, rating schedules, or rating manuals to allow the  
228 insurer a reasonable rate of return on such classes of insurance  
229 written in this state. A copy of rates, rating schedules, rating  
230 manuals, premium credits or discount schedules, and surcharge



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231 schedules, and changes thereto, shall be filed with the office  
232 under one of the following procedures except as provided in  
233 subparagraph 3.:

234 1. If the filing is made at least 90 days before the  
235 proposed effective date and the filing is not implemented during  
236 the office's review of the filing and any proceeding and  
237 judicial review, then such filing shall be considered a "file  
238 and use" filing. In such case, the office shall finalize its  
239 review by issuance of an approval ~~a notice of intent to approve~~  
240 or a notice of intent to disapprove within 90 days after receipt  
241 of the filing. The approval ~~notice of intent to approve~~ and the  
242 notice of intent to disapprove constitute agency action for  
243 purposes of the Administrative Procedure Act. Requests for  
244 supporting information, requests for mathematical or mechanical  
245 corrections, or notification to the insurer by the office of its  
246 preliminary findings shall not toll the 90-day period during any  
247 such proceedings and subsequent judicial review. The rate shall  
248 be deemed approved if the office does not issue an approval ~~a~~  
249 ~~notice of intent to approve~~ or a notice of intent to disapprove  
250 within 90 days after receipt of the filing.

251 2. If the filing is not made in accordance with the  
252 provisions of subparagraph 1., such filing shall be made as soon  
253 as practicable, but no later than 30 days after the effective  
254 date, and shall be considered a "use and file" filing. An  
255 insurer making a "use and file" filing is potentially subject to  
256 an order by the office to return to policyholders portions of  
257 rates found to be excessive, as provided in paragraph (h).

258 3. For all property insurance filings made or submitted  
259 after January 25, 2007, but before December 31, 2012 ~~2010~~, an



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260 insurer seeking a rate that is greater than the rate most  
261 recently approved by the office shall make a "file and use"  
262 filing. For purposes of this subparagraph, motor vehicle  
263 collision and comprehensive coverages are not considered to be  
264 property coverages.

265 (b) Upon receiving a rate filing, the office shall review  
266 the rate filing to determine if a rate is excessive, inadequate,  
267 or unfairly discriminatory. In making that determination, the  
268 office shall, in accordance with generally accepted and  
269 reasonable actuarial techniques, consider the following factors:

270 1. Past and prospective loss experience within and without  
271 this state.

272 2. Past and prospective expenses.

273 3. The degree of competition among insurers for the risk  
274 insured.

275 4. Investment income reasonably expected by the insurer,  
276 consistent with the insurer's investment practices, from  
277 investable premiums anticipated in the filing, plus any other  
278 expected income from currently invested assets representing the  
279 amount expected on unearned premium reserves and loss reserves.  
280 The commission may adopt rules using reasonable techniques of  
281 actuarial science and economics to specify the manner in which  
282 insurers shall calculate investment income attributable to such  
283 classes of insurance written in this state and the manner in  
284 which such investment income shall be used to calculate  
285 insurance rates. Such manner shall contemplate allowances for an  
286 underwriting profit factor and full consideration of investment  
287 income which produce a reasonable rate of return; however,  
288 investment income from invested surplus may not be considered.



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- 289           5. The reasonableness of the judgment reflected in the  
290 filing.
- 291           6. Dividends, savings, or unabsorbed premium deposits  
292 allowed or returned to Florida policyholders, members, or  
293 subscribers.
- 294           7. The adequacy of loss reserves.
- 295           8. The cost of reinsurance. The office shall not disapprove  
296 a rate as excessive solely due to the insurer having obtained  
297 catastrophic reinsurance to cover the insurer's estimated 250-  
298 year probable maximum loss or any lower level of loss.
- 299           9. Trend factors, including trends in actual losses per  
300 insured unit for the insurer making the filing.
- 301           10. Conflagration and catastrophe hazards, if applicable.
- 302           11. Projected hurricane losses, if applicable, which must  
303 be estimated using a model or method found to be acceptable or  
304 reliable by the Florida Commission on Hurricane Loss Projection  
305 Methodology, and as further provided in s. 627.0628.
- 306           12. A reasonable margin for underwriting profit and  
307 contingencies.
- 308           13. The cost of medical services, if applicable.
- 309           14. Other relevant factors which impact upon the frequency  
310 or severity of claims or upon expenses.
- 311           (c) In the case of fire insurance rates, consideration  
312 shall be given to the availability of water supplies and the  
313 experience of the fire insurance business during a period of not  
314 less than the most recent 5-year period for which such  
315 experience is available.
- 316           (d) If conflagration or catastrophe hazards are given  
317 consideration by an insurer in its rates or rating plan,



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318 including surcharges and discounts, the insurer shall establish  
319 a reserve for that portion of the premium allocated to such  
320 hazard and shall maintain the premium in a catastrophe reserve.  
321 Any removal of such premiums from the reserve for purposes other  
322 than paying claims associated with a catastrophe or purchasing  
323 reinsurance for catastrophes shall be subject to approval of the  
324 office. Any ceding commission received by an insurer purchasing  
325 reinsurance for catastrophes shall be placed in the catastrophe  
326 reserve.

327 (e) After consideration of the rate factors provided in  
328 paragraphs (b), (c), and (d), a rate may be found by the office  
329 to be excessive, inadequate, or unfairly discriminatory based  
330 upon the following standards:

331 1. Rates shall be deemed excessive if they are likely to  
332 produce a profit from Florida business that is unreasonably high  
333 in relation to the risk involved in the class of business or if  
334 expenses are unreasonably high in relation to services rendered.

335 2. Rates shall be deemed excessive if, among other things,  
336 the rate structure established by a stock insurance company  
337 provides for replenishment of surpluses from premiums, when the  
338 replenishment is attributable to investment losses.

339 3. Rates shall be deemed inadequate if they are clearly  
340 insufficient, together with the investment income attributable  
341 to them, to sustain projected losses and expenses in the class  
342 of business to which they apply.

343 4. A rating plan, including discounts, credits, or  
344 surcharges, shall be deemed unfairly discriminatory if it fails  
345 to clearly and equitably reflect consideration of the  
346 policyholder's participation in a risk management program



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347 adopted pursuant to s. 627.0625.

348         5. A rate shall be deemed inadequate as to the premium  
349 charged to a risk or group of risks if discounts or credits are  
350 allowed which exceed a reasonable reflection of expense savings  
351 and reasonably expected loss experience from the risk or group  
352 of risks.

353         6. A rate shall be deemed unfairly discriminatory as to a  
354 risk or group of risks if the application of premium discounts,  
355 credits, or surcharges among such risks does not bear a  
356 reasonable relationship to the expected loss and expense  
357 experience among the various risks.

358         (f) In reviewing a rate filing, the office may require the  
359 insurer to provide at the insurer's expense all information  
360 necessary to evaluate the condition of the company and the  
361 reasonableness of the filing according to the criteria  
362 enumerated in this section.

363         (g) The office may at any time review a rate, rating  
364 schedule, rating manual, or rate change; the pertinent records  
365 of the insurer; and market conditions. If the office finds on a  
366 preliminary basis that a rate may be excessive, inadequate, or  
367 unfairly discriminatory, the office shall initiate proceedings  
368 to disapprove the rate and shall so notify the insurer. However,  
369 the office may not disapprove as excessive any rate for which it  
370 has given final approval or which has been deemed approved for a  
371 period of 1 year after the effective date of the filing unless  
372 the office finds that a material misrepresentation or material  
373 error was made by the insurer or was contained in the filing.  
374 Upon being so notified, the insurer or rating organization  
375 shall, within 60 days, file with the office all information



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376 which, in the belief of the insurer or organization, proves the  
377 reasonableness, adequacy, and fairness of the rate or rate  
378 change. The office shall issue a notice of intent to approve or  
379 a notice of intent to disapprove pursuant to the procedures of  
380 paragraph (a) within 90 days after receipt of the insurer's  
381 initial response. In such instances and in any administrative  
382 proceeding relating to the legality of the rate, the insurer or  
383 rating organization shall carry the burden of proof by a  
384 preponderance of the evidence to show that the rate is not  
385 excessive, inadequate, or unfairly discriminatory. After the  
386 office notifies an insurer that a rate may be excessive,  
387 inadequate, or unfairly discriminatory, unless the office  
388 withdraws the notification, the insurer shall not alter the rate  
389 except to conform with the office's notice until the earlier of  
390 120 days after the date the notification was provided or 180  
391 days after the date of the implementation of the rate. The  
392 office may, subject to chapter 120, disapprove without the 60-  
393 day notification any rate increase filed by an insurer within  
394 the prohibited time period or during the time that the legality  
395 of the increased rate is being contested.

396 (h) ~~If In the event~~ the office finds that a rate or rate  
397 change is excessive, inadequate, or unfairly discriminatory, the  
398 office shall issue an order of disapproval specifying that a new  
399 rate or rate schedule which responds to the findings of the  
400 office be filed by the insurer. The office shall further order,  
401 for any "use and file" filing made in accordance with  
402 subparagraph (a)2., that premiums charged each policyholder  
403 constituting the portion of the rate above that which was  
404 actuarially justified be returned to such policyholder in the



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405 form of a credit or refund. If the office finds that an  
406 insurer's rate or rate change is inadequate, the new rate or  
407 rate schedule filed with the office in response to such a  
408 finding shall be applicable only to new or renewal business of  
409 the insurer written on or after the effective date of the  
410 responsive filing.

411 (i) 1. Except as otherwise specifically provided in this  
412 chapter, the office shall not, directly or indirectly, prohibit  
413 any insurer, including any residual market plan or joint  
414 underwriting association, from paying acquisition costs based on  
415 the full amount of premium, as defined in s. 627.403, applicable  
416 to any policy, or directly or indirectly prohibit any such  
417 insurer from including the full amount of acquisition costs in a  
418 rate filing.

419 2. Notwithstanding subparagraph (e)1., the office shall  
420 not:

421 a. Disapprove or require an amendment to any rate filing  
422 based upon the reasonableness of expenses for acquisition costs  
423 paid for advertising or compensation to insurance agents who are  
424 not employees; or

425 b. Directly or indirectly, impede, abridge, or otherwise  
426 compromise an insurer's right to acquire policyholders,  
427 advertise, or appoint agents, including the calculation, manner,  
428 or amount of such agent commissions, if any.

429 (j) With respect to residential property insurance rate  
430 filings, the rate filing must account for mitigation measures  
431 undertaken by policyholders to reduce hurricane losses.

432 (k) 1.a. An insurer may make a separate filing limited  
433 solely to an adjustment of its rates for reinsurance, the cost



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434 of financing products used as a replacement for reinsurance, or  
435 financing costs incurred in the purchase of reinsurance, and an  
436 inflation trend factor published by the office pursuant to  
437 subparagraph 4. The filing need not be certified by the chief  
438 executive officer or the chief actuarial officer of the insurer  
439 pursuant to subsection (9). If an insurer chooses to make a  
440 separate filing under this paragraph, it must implement the rate  
441 in such a manner that all rate increases implemented as a result  
442 of the separate filing, together with rate increases associated  
443 with any other rate filing, do or financing products to replace  
444 or finance the payment of the amount covered by the Temporary  
445 Increase in Coverage Limits (TICL) portion of the Florida  
446 Hurricane Catastrophe Fund including replacement reinsurance for  
447 the TICL reductions made pursuant to s. 215.555(17)(c); the  
448 actual cost paid due to the application of the TICL premium  
449 factor pursuant to s. 215.555(17)(f); and the actual cost paid  
450 due to the application of the cash build-up factor pursuant to  
451 s. 215.555(5)(b) if the insurer:

452 a. Elects to purchase financing products such as a  
453 liquidity instrument or line of credit, in which case the cost  
454 included in the filing for the liquidity instrument or line of  
455 credit may not result in a premium increase exceeding 3 percent  
456 for any individual policyholder. All costs contained in the  
457 filing may not result in an overall premium increase of more  
458 than 10 percent for any individual policyholder within the same  
459 policy year.

460 b. An insurer that makes a filing relating to reinsurance  
461 or financing products must include the following Includes in the  
462 filing: a copy of all of its reinsurance, liquidity instrument,



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463 or line of credit contracts; proof of the billing or payment for  
464 the contracts; and the calculation upon which the proposed rate  
465 change is based demonstrating ~~demonstrates~~ that the costs meet  
466 the criteria of this section ~~and are not loaded for expenses or~~  
467 ~~profit for the insurer making the filing.~~

468 c. Any filing made pursuant this paragraph may include only  
469 the ~~Includes no other~~ changes to its rates which are expressly  
470 authorized by this paragraph in the filing.

471 ~~d. Has not implemented a rate increase within the 6 months~~  
472 ~~immediately preceding the filing.~~

473 ~~e. Does not file for a rate increase under any other~~  
474 ~~paragraph within 6 months after making a filing under this~~  
475 ~~paragraph.~~

476 ~~d.f.~~ An insurer that purchases reinsurance or financing  
477 products from an affiliated company may make a filing pursuant  
478 to ~~in compliance with~~ this paragraph ~~does so~~ only if the costs  
479 for such reinsurance or financing products are charged at or  
480 below charges made for comparable coverage by nonaffiliated  
481 reinsurers or financial entities making such coverage or  
482 financing products available in this state.

483 e. An insurer that makes a filing as the result of a change  
484 in an inflation trend factor published by the office need  
485 support that filing only with rates and rating examples and an  
486 explanation demonstrating the insurer's eligibility to adopt the  
487 inflation trend factor.

488 2. An insurer may ~~only~~ make only one filing in any 12-month  
489 period under this paragraph.

490 3. An insurer that elects to implement a rate change under  
491 this paragraph must file its rate filing with the office at



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492 least 45 days before the effective date of the rate change.  
493 After an insurer submits a complete filing that meets all of the  
494 requirements of this paragraph, the office has 45 days after the  
495 date of the filing to review the rate filing and determine if  
496 the rate is excessive, inadequate, or unfairly discriminatory.

497 4. Beginning January 1, 2011, the office shall publish an  
498 annual informational memorandum to establish one or more  
499 inflation trend factors that may be stated separately for  
500 personal and residential property and for building coverage,  
501 contents coverage, additional living expense coverage, and  
502 liability coverage, if applicable. These factors shall represent  
503 an estimate of cost increases or decreases based upon publicly  
504 available relevant data and economic indices that are identified  
505 in the memorandum. Such factors are exempt from the rulemaking  
506 requirements of chapter 120, and insurers are not required to  
507 adopt the factors. The office may publish factors for any line  
508 of insurance, but is required to publish a factor only for  
509 residential property insurance.

510  
511 The provisions of this subsection do ~~shall~~ not apply to workers'  
512 compensation and employer's liability insurance and to motor  
513 vehicle insurance.

514 (3) (a) For individual risks that are not rated in  
515 accordance with the insurer's rates, rating schedules, rating  
516 manuals, and underwriting rules filed with the office and which  
517 have been submitted to the insurer for individual rating, the  
518 insurer must maintain documentation on each risk subject to  
519 individual risk rating. The documentation must identify the  
520 named insured and specify the characteristics and classification



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521 of the risk supporting the reason for the risk being  
522 individually risk rated, including any modifications to existing  
523 approved forms to be used on the risk. The insurer must maintain  
524 these records for a period of at least 5 years after the  
525 effective date of the policy.

526 (b) Individual risk rates and modifications to existing  
527 approved forms are not subject to this part or part II, except  
528 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
529 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
530 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
531 627.4265, 627.427, and 627.428, but are subject to all other  
532 applicable provisions of this code and rules adopted thereunder.

533 (c) This subsection does not apply to private passenger  
534 motor vehicle insurance.

535 (4) (a) Contingent on specific appropriations made to  
536 implement this subsection, in order to enhance the ability of  
537 consumers to compare premiums and to increase the accuracy and  
538 usefulness of rate and product comparison information for  
539 homeowners' insurance, the office shall develop or contract with  
540 a private entity to develop a comprehensive program for  
541 providing the consumer with all available information necessary  
542 to make an informed purchase of the insurance product that best  
543 serves the needs of the individual.

544 (b) In developing the comprehensive program, the office  
545 shall rely as much as is practical on information that is  
546 currently available and shall consider:

547 1. The most efficient means for developing, hosting, and  
548 operating a separate website that consolidates all consumer  
549 information for price comparisons, filed complaints, financial



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550 strength, underwriting, and receivership information and other  
551 data useful to consumers;

552 2. Whether all admitted insurers should be required to  
553 submit additional information to populate the composite website  
554 and how often such submissions must be made;

555 3. Whether all admitted insurers should be required to  
556 provide links from the website into each individual insurer's  
557 website in order to enable consumers to access product rate  
558 information and apply for quotations;

559 4. Developing a plan to publicize the existence,  
560 availability, and value of the website; and

561 5. Any other provision that would make relevant homeowners'  
562 insurance information more readily available so that consumers  
563 can make informed product comparisons and purchasing decisions.

564 (c) Before establishing the program or website, the office  
565 shall conduct a cost-benefit analysis to determine the most  
566 effective approach for establishing and operating the program  
567 and website. Based on the results of the analysis, the office  
568 shall submit a proposed implementation plan for review and  
569 approval by the Financial Services Commission. The  
570 implementation plan shall include an estimated timeline for  
571 establishing the program and website; a description of the data  
572 and functionality to be provided by the site, a strategy for  
573 publicizing the website to consumers; a recommended approach for  
574 developing, hosting, and operating the website; and an estimate  
575 of all major nonrecurring and recurring costs required to  
576 establish and operate the website. Upon approval of the plan,  
577 the office may initiate the establishment of the program.

578 (5)-(4) The establishment of any rate, rating



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579 classification, rating plan or schedule, or variation thereof in  
580 violation of part IX of chapter 626 is also in violation of this  
581 section. ~~In order to enhance the ability of consumers to compare~~  
582 ~~premiums and to increase the accuracy and usefulness of rate-~~  
583 ~~comparison information provided by the office to the public, the~~  
584 ~~office shall develop a proposed standard rating territory plan~~  
585 ~~to be used by all authorized property and casualty insurers for~~  
586 ~~residential property insurance. In adopting the proposed plan,~~  
587 ~~the office may consider geographical characteristics relevant to~~  
588 ~~risk, county lines, major roadways, existing rating territories~~  
589 ~~used by a significant segment of the market, and other relevant~~  
590 ~~factors. Such plan shall be submitted to the President of the~~  
591 ~~Senate and the Speaker of the House of Representatives by~~  
592 ~~January 15, 2006. The plan may not be implemented unless~~  
593 ~~authorized by further act of the Legislature.~~

594       (6)(5) With respect to a rate filing involving coverage of  
595 the type for which the insurer is required to pay a  
596 reimbursement premium to the Florida Hurricane Catastrophe Fund,  
597 the insurer may fully recoup in its property insurance premiums  
598 any reimbursement premiums paid to the Florida Hurricane  
599 Catastrophe Fund, together with reasonable costs of other  
600 reinsurance, but except as otherwise provided in this section,  
601 may not recoup reinsurance costs that duplicate coverage  
602 provided by the Florida Hurricane Catastrophe Fund. An insurer  
603 may not recoup more than 1 year of reimbursement premium at a  
604 time. Any under-recoupment from the prior year may be added to  
605 the following year's reimbursement premium, and any over-  
606 recoupment shall be subtracted from the following year's  
607 reimbursement premium.



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608        ~~(7)-(6)~~ (a) If an insurer requests an administrative hearing  
609 pursuant to s. 120.57 related to a rate filing under this  
610 section, the director of the Division of Administrative Hearings  
611 shall expedite the hearing and assign an administrative law  
612 judge who shall commence the hearing within 30 days after the  
613 receipt of the formal request and shall enter a recommended  
614 order within 30 days after the hearing or within 30 days after  
615 receipt of the hearing transcript by the administrative law  
616 judge, whichever is later. Each party shall be allowed 10 days  
617 in which to submit written exceptions to the recommended order.  
618 The office shall enter a final order within 30 days after the  
619 entry of the recommended order. The provisions of this paragraph  
620 may be waived upon stipulation of all parties.

621        (b) Upon entry of a final order, the insurer may request a  
622 expedited appellate review pursuant to the Florida Rules of  
623 Appellate Procedure. It is the intent of the Legislature that  
624 the First District Court of Appeal grant an insurer's request  
625 for an expedited appellate review.

626        ~~(8)-(7)~~ (a) The provisions of this subsection apply only with  
627 respect to rates for medical malpractice insurance and shall  
628 control to the extent of any conflict with other provisions of  
629 this section.

630        (b) Any portion of a judgment entered or settlement paid as  
631 a result of a statutory or common-law bad faith action and any  
632 portion of a judgment entered which awards punitive damages  
633 against an insurer may not be included in the insurer's rate  
634 base, and shall not be used to justify a rate or rate change.  
635 Any common-law bad faith action identified as such, any portion  
636 of a settlement entered as a result of a statutory or common-law



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637 action, or any portion of a settlement wherein an insurer agrees  
638 to pay specific punitive damages may not be used to justify a  
639 rate or rate change. The portion of the taxable costs and  
640 attorney's fees which is identified as being related to the bad  
641 faith and punitive damages in these judgments and settlements  
642 may not be included in the insurer's rate base and may not be  
643 used ~~utilized~~ to justify a rate or rate change.

644 (c) Upon reviewing a rate filing and determining whether  
645 the rate is excessive, inadequate, or unfairly discriminatory,  
646 the office shall consider, in accordance with generally accepted  
647 and reasonable actuarial techniques, past and present  
648 prospective loss experience, either using loss experience solely  
649 for this state or giving greater credibility to this state's  
650 loss data after applying actuarially sound methods of assigning  
651 credibility to such data.

652 (d) Rates shall be deemed excessive if, among other  
653 standards established by this section, the rate structure  
654 provides for replenishment of reserves or surpluses from  
655 premiums when the replenishment is attributable to investment  
656 losses.

657 (e) The insurer must apply a discount or surcharge based on  
658 the health care provider's loss experience or shall establish an  
659 alternative method giving due consideration to the provider's  
660 loss experience. The insurer must include in the filing a copy  
661 of the surcharge or discount schedule or a description of the  
662 alternative method used, and must provide a copy of such  
663 schedule or description, as approved by the office, to  
664 policyholders at the time of renewal and to prospective  
665 policyholders at the time of application for coverage.



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666 (f) Each medical malpractice insurer must make a rate  
667 filing under this section, sworn to by at least two executive  
668 officers of the insurer, at least once each calendar year.

669 ~~(8)(a)1. No later than 60 days after the effective date of~~  
670 ~~medical malpractice legislation enacted during the 2003 Special~~  
671 ~~Session D of the Florida Legislature, the office shall calculate~~  
672 ~~a presumed factor that reflects the impact that the changes~~  
673 ~~contained in such legislation will have on rates for medical~~  
674 ~~malpractice insurance and shall issue a notice informing all~~  
675 ~~insurers writing medical malpractice coverage of such presumed~~  
676 ~~factor. In determining the presumed factor, the office shall use~~  
677 ~~generally accepted actuarial techniques and standards provided~~  
678 ~~in this section in determining the expected impact on losses,~~  
679 ~~expenses, and investment income of the insurer. To the extent~~  
680 ~~that the operation of a provision of medical malpractice~~  
681 ~~legislation enacted during the 2003 Special Session D of the~~  
682 ~~Florida Legislature is stayed pending a constitutional~~  
683 ~~challenge, the impact of that provision shall not be included in~~  
684 ~~the calculation of a presumed factor under this subparagraph.~~

685 ~~2. No later than 60 days after the office issues its notice~~  
686 ~~of the presumed rate change factor under subparagraph 1., each~~  
687 ~~insurer writing medical malpractice coverage in this state shall~~  
688 ~~submit to the office a rate filing for medical malpractice~~  
689 ~~insurance, which will take effect no later than January 1, 2004,~~  
690 ~~and apply retroactively to policies issued or renewed on or~~  
691 ~~after the effective date of medical malpractice legislation~~  
692 ~~enacted during the 2003 Special Session D of the Florida~~  
693 ~~Legislature. Except as authorized under paragraph (b), the~~  
694 ~~filing shall reflect an overall rate reduction at least as great~~



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695 ~~as the presumed factor determined under subparagraph 1. With~~  
696 ~~respect to policies issued on or after the effective date of~~  
697 ~~such legislation and prior to the effective date of the rate~~  
698 ~~filing required by this subsection, the office shall order the~~  
699 ~~insurer to make a refund of the amount that was charged in~~  
700 ~~excess of the rate that is approved.~~

701 ~~(b) Any insurer or rating organization that contends that~~  
702 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~  
703 ~~or unfairly discriminatory shall separately state in its filing~~  
704 ~~the rate it contends is appropriate and shall state with~~  
705 ~~specificity the factors or data that it contends should be~~  
706 ~~considered in order to produce such appropriate rate. The~~  
707 ~~insurer or rating organization shall be permitted to use all of~~  
708 ~~the generally accepted actuarial techniques provided in this~~  
709 ~~section in making any filing pursuant to this subsection. The~~  
710 ~~office shall review each such exception and approve or~~  
711 ~~disapprove it prior to use. It shall be the insurer's burden to~~  
712 ~~actuarially justify any deviations from the rates required to be~~  
713 ~~filed under paragraph (a). The insurer making a filing under~~  
714 ~~this paragraph shall include in the filing the expected impact~~  
715 ~~of medical malpractice legislation enacted during the 2003~~  
716 ~~Special Session D of the Florida Legislature on losses,~~  
717 ~~expenses, and rates.~~

718 ~~(c) If any provision of medical malpractice legislation~~  
719 ~~enacted during the 2003 Special Session D of the Florida~~  
720 ~~Legislature is held invalid by a court of competent~~  
721 ~~jurisdiction, the office shall permit an adjustment of all~~  
722 ~~medical malpractice rates filed under this section to reflect~~  
723 ~~the impact of such holding on such rates so as to ensure that~~



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724 ~~the rates are not excessive, inadequate, or unfairly~~  
725 ~~discriminatory.~~

726 ~~(d) Rates approved on or before July 1, 2003, for medical~~  
727 ~~malpractice insurance shall remain in effect until the effective~~  
728 ~~date of a new rate filing approved under this subsection.~~

729 ~~(e) The calculation and notice by the office of the~~  
730 ~~presumed factor pursuant to paragraph (a) is not an order or~~  
731 ~~rule that is subject to chapter 120. If the office enters into a~~  
732 ~~contract with an independent consultant to assist the office in~~  
733 ~~calculating the presumed factor, such contract shall not be~~  
734 ~~subject to the competitive solicitation requirements of s.~~  
735 ~~287.057.~~

736 (9) (a) The chief executive officer or chief financial  
737 officer of a property insurer and the chief actuary of a  
738 property insurer must certify under oath and subject to the  
739 penalty of perjury, on a form approved by the commission, the  
740 following information, which must accompany a rate filing:

741 1. The signing officer and actuary have reviewed the rate  
742 filing;

743 2. Based on the signing officer's and actuary's knowledge,  
744 the rate filing does not contain any untrue statement of a  
745 material fact or omit to state a material fact necessary in  
746 order to make the statements made, in light of the circumstances  
747 under which such statements were made, not misleading;

748 3. Based on the signing officer's and actuary's knowledge,  
749 the information and other factors described in paragraph (2) (b),  
750 including, but not limited to, investment income, fairly present  
751 in all material respects the basis of the rate filing for the  
752 periods presented in the filing; and



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753           4. Based on the signing officer's and actuary's knowledge,  
754 the rate filing reflects all premium savings that are reasonably  
755 expected to result from legislative enactments and are in  
756 accordance with generally accepted and reasonable actuarial  
757 techniques.

758           (b) A signing officer or actuary knowingly making a false  
759 certification under this subsection commits a violation of s.  
760 626.9541(1)(e) and is subject to the penalties under s.  
761 626.9521.

762           (c) Failure to provide such certification by the officer  
763 and actuary shall result in the rate filing being disapproved  
764 without prejudice to be refiled.

765           (d) The commission may adopt rules and forms pursuant to  
766 ss. 120.536(1) and 120.54 to administer this subsection.

767           (10) The burden is on the office to establish that rates  
768 are excessive for personal lines residential coverage with a  
769 dwelling replacement cost of \$1 million or more or for a single  
770 condominium unit with a combined dwelling and contents  
771 replacement cost of \$1 million or more. Upon request of the  
772 office, the insurer shall provide to the office such loss and  
773 expense information as the office reasonably needs to meet this  
774 burden.

775           (11) Any interest paid pursuant to s. 627.70131(5) may not  
776 be included in the insurer's rate base and may not be used to  
777 justify a rate or rate change.

778           Section 4. Section 627.0629, Florida Statutes, is amended  
779 to read:

780           627.0629 Residential property insurance; rate filings.—

781           (1) (a) It is the intent of the Legislature that insurers



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782 ~~must~~ provide the most accurate pricing signals available ~~savings~~  
783 to encourage consumers to ~~who~~ install or implement windstorm  
784 damage mitigation techniques, alterations, or solutions to their  
785 properties to prevent windstorm losses. It is also the intent of  
786 the Legislature that implementation of mitigation discounts not  
787 result in a loss of income to the insurers granting the  
788 discounts, so that the aggregate of mitigation discounts should  
789 not exceed the aggregate of the expected reduction in loss that  
790 is attributable to the mitigation efforts for which discounts  
791 are granted. A rate filing for residential property insurance  
792 must include actuarially reasonable discounts, credits, debits,  
793 or other rate differentials, or appropriate reductions in  
794 deductibles, which provide the proper pricing for all  
795 properties. The rate filing must take into account the presence  
796 or absence of ~~on which~~ fixtures or construction techniques  
797 demonstrated to reduce the amount of loss in a windstorm have  
798 been installed or implemented. The fixtures or construction  
799 techniques shall include, but not be limited to, fixtures or  
800 construction techniques that ~~which~~ enhance roof strength, roof  
801 covering performance, roof-to-wall strength, wall-to-floor-to-  
802 foundation strength, opening protection, and window, door, and  
803 skylight strength. Credits, debits, discounts, or other rate  
804 differentials, or appropriate reductions or increases in  
805 deductibles, which recognize the presence or absence of ~~for~~  
806 fixtures and construction techniques that ~~which~~ meet the minimum  
807 requirements of the Florida Building Code must be included in  
808 the rate filing. If an insurer demonstrates that the aggregate  
809 of its mitigation discounts results in a reduction to revenue  
810 which exceeds the reduction of the aggregate loss that is



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811 expected to result from the mitigation, that insurer may recover  
812 the lost revenue through an increase in its base rates. All  
813 insurance companies must make a rate filing which includes the  
814 credits, discounts, or other rate differentials or reductions in  
815 deductibles by February 28, 2003. By July 1, 2007, the office  
816 shall reevaluate the discounts, credits, other rate  
817 differentials, and appropriate reductions in deductibles for  
818 fixtures and construction techniques that meet the minimum  
819 requirements of the Florida Building Code, based upon actual  
820 experience or any other loss relativity studies available to the  
821 office. The office shall determine the discounts, credits,  
822 debits, other rate differentials, and appropriate reductions or  
823 increases in deductibles that reflect the full actuarial value  
824 of such revaluation, which may be used by insurers in rate  
825 filings.

826 (b) By February 1, 2011, the Office of Insurance  
827 Regulation, in consultation with the Department of Financial  
828 Services and the Department of Community Affairs, shall develop  
829 and make publicly available a proposed method for insurers to  
830 establish discounts, credits, debits, or other rate  
831 differentials for hurricane mitigation measures which directly  
832 correlate to the numerical rating assigned to a structure  
833 pursuant to the uniform home grading scale adopted by the  
834 Financial Services Commission pursuant to s. 215.55865,  
835 including any proposed changes to the uniform home grading  
836 scale. By October 1, 2011, the commission shall adopt rules  
837 requiring insurers to make rate filings for residential property  
838 insurance which revise insurers' discounts, credits, debits, or  
839 other rate differentials for hurricane mitigation measures so



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840 that such rate differentials correlate directly to the uniform  
841 home grading scale. The rules may include such changes to the  
842 uniform home grading scale as the commission determines are  
843 necessary, and may specify the minimum required discounts,  
844 credits, or other rate differentials. Such rate differentials  
845 must be consistent with generally accepted actuarial principles  
846 and wind-loss mitigation studies. The rules must ~~shall~~ allow a  
847 period of at least 2 years after the effective date of the  
848 revised mitigation discounts, credits, debits, or other rate  
849 differentials for a property owner to obtain an inspection or  
850 otherwise qualify for the revised credit or debit, during which  
851 time the insurer must ~~shall~~ continue to apply the mitigation  
852 credit or debit that was applied immediately before ~~prior to~~ the  
853 effective date of the revised credit. Discounts, credits,  
854 debits, and other rate differentials established for rate  
855 filings under this paragraph shall supersede, after adoption,  
856 the discounts, credits, and other rate differentials included in  
857 rate filings under paragraph (a).

858 (2) (a) A rate filing for residential property insurance  
859 made on or before the implementation of paragraph (b) may  
860 include rate factors that reflect the manner in which building  
861 code enforcement in a particular jurisdiction addresses the risk  
862 of wind damage. ~~+~~ However, such a rate filing must also provide  
863 for variations from such rate factors on an individual basis  
864 based on an inspection of a particular structure by a licensed  
865 home inspector, which inspection may be at the cost of the  
866 insured.

867 (b) A rate filing for residential property insurance made  
868 more than 150 days after approval by the office of a building



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869 code rating factor plan submitted by a statewide rating  
870 organization shall include positive and negative rate factors  
871 that reflect the manner in which building code enforcement in a  
872 particular jurisdiction addresses risk of wind damage. The rate  
873 filing shall include variations from standard rate factors on an  
874 individual basis based on inspection of a particular structure  
875 by a licensed home inspector. If an inspection is requested by  
876 the insured, the insurer may require the insured to pay the  
877 reasonable cost of the inspection. This paragraph applies to  
878 structures constructed or renovated after the implementation of  
879 this paragraph.

880 (c) The premium notice shall specify the amount by which  
881 the rate has been adjusted as a result of this subsection and  
882 shall also specify the maximum possible positive and negative  
883 adjustments that are approved for use by the insurer under this  
884 subsection.

885 (3) A rate filing ~~made on or after July 1, 1995,~~ for mobile  
886 home owner's insurance must include appropriate discounts,  
887 credits, or other rate differentials for mobile homes  
888 constructed to comply with American Society of Civil Engineers  
889 Standard ANSI/ASCE 7-88, adopted by the United States Department  
890 of Housing and Urban Development on July 13, 1994, and that also  
891 comply with all applicable tie-down requirements provided by  
892 state law.

893 (4) The Legislature finds that separate consideration and  
894 notice of hurricane insurance premiums will assist consumers by  
895 providing greater assurance that hurricane premiums are lawful  
896 and by providing more complete information regarding the  
897 components of property insurance premiums. ~~Effective January 1,~~



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898 ~~1997,~~ A rate filing for residential property insurance shall be  
899 separated into two components, rates for hurricane coverage and  
900 rates for all other coverages. A premium notice reflecting a  
901 rate implemented on the basis of such a filing shall separately  
902 indicate the premium for hurricane coverage and the premium for  
903 all other coverages.

904 (5) In order to provide an appropriate transition period,  
905 an insurer may, in its sole discretion, implement an approved  
906 rate filing for residential property insurance over a period of  
907 years. An insurer electing to phase in its rate filing must  
908 provide an informational notice to the office setting out its  
909 schedule for implementation of the phased-in rate filing. An  
910 insurer may include in its rate the actual cost of private  
911 market reinsurance that corresponds to available coverage of the  
912 Temporary Increase in Coverage Limits, TICL, from the Florida  
913 Hurricane Catastrophe Fund. The insurer may also include the  
914 cost of reinsurance to replace the TICL reduction implemented  
915 pursuant to s. 215.555(17)(d)9. However, this cost for  
916 reinsurance may not ~~include any expense or profit load or~~ result  
917 in a total annual base rate increase in excess of 10 percent.

918 (6) Any rate filing that is based in whole or part on data  
919 from a computer model may not exceed 15 percent unless there is  
920 a public hearing.

921 (7) An insurer may implement appropriate discounts or other  
922 rate differentials of up to 10 percent of the annual premium to  
923 mobile home owners who provide to the insurer evidence of a  
924 current inspection of tie-downs for the mobile home, certifying  
925 that the tie-downs have been properly installed and are in good  
926 condition.



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927 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL  
928 SOUNDNESS.—

929 (a) It is the intent of the Legislature to provide a  
930 program whereby homeowners may obtain an evaluation of the wind  
931 resistance of their homes with respect to preventing damage from  
932 hurricanes, together with a recommendation of reasonable steps  
933 that may be taken to upgrade their homes to better withstand  
934 hurricane force winds.

935 (b) To the extent that funds are provided for this purpose  
936 in the General Appropriations Act, the Legislature hereby  
937 authorizes the establishment of a program to be administered by  
938 the Citizens Property Insurance Corporation for homeowners  
939 insured in the high-risk account.

940 (c) The program shall provide grants to homeowners, for the  
941 purpose of providing homeowner applicants with funds to conduct  
942 an evaluation of the integrity of their homes with respect to  
943 withstanding hurricane force winds, recommendations to retrofit  
944 the homes to better withstand damage from such winds, and the  
945 estimated cost to make the recommended retrofits.

946 (d) The Department of Community Affairs shall establish by  
947 rule standards to govern the quality of the evaluation, the  
948 quality of the recommendations for retrofitting, the eligibility  
949 of the persons conducting the evaluation, and the selection of  
950 applicants under the program. In establishing the rule, the  
951 Department of Community Affairs shall consult with the advisory  
952 committee to minimize the possibility of fraud or abuse in the  
953 evaluation and retrofitting process, and to ensure that funds  
954 spent by homeowners acting on the recommendations achieve  
955 positive results.



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956 (e) The Citizens Property Insurance Corporation shall  
957 identify areas of this state with the greatest wind risk to  
958 residential properties and recommend annually to the Department  
959 of Community Affairs priority target areas for such evaluations  
960 and inclusion with the associated residential construction  
961 mitigation program.

962 (9) A property insurance rate filing that includes any  
963 adjustments related to premiums paid to the Florida Hurricane  
964 Catastrophe Fund must include a complete calculation of the  
965 insurer's catastrophe load, and the information in the filing  
966 may not be limited solely to recovery of moneys paid to the  
967 fund.

968 Section 5. Subsection (2) of section 627.4133, Florida  
969 Statutes, is amended to read:

970 627.4133 Notice of cancellation, nonrenewal, or renewal  
971 premium.—

972 (2) With respect to any personal lines or commercial  
973 residential property insurance policy, including, but not  
974 limited to, any homeowner's, mobile home owner's, farmowner's,  
975 condominium association, condominium unit owner's, apartment  
976 building, or other policy covering a residential structure or  
977 its contents:

978 (a) The insurer shall give the named insured at least 45  
979 days' advance written notice of the renewal premium.

980 (b) The insurer shall give the named insured written notice  
981 of nonrenewal, cancellation, or termination at least 100 days  
982 before ~~prior to~~ the effective date of the nonrenewal,  
983 cancellation, or termination. However, the insurer shall give at  
984 least 100 days' written notice, or written notice by June 1,



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985 whichever is earlier, for any nonrenewal, cancellation, or  
986 termination that would be effective between June 1 and November  
987 30. The notice must include the reason or reasons for the  
988 nonrenewal, cancellation, or termination, except that:

989 1. The insurer must ~~shall~~ give the named insured written  
990 notice of nonrenewal, cancellation, or termination at least 180  
991 days before ~~prior to~~ the effective date of the nonrenewal,  
992 cancellation, or termination for a named insured whose  
993 residential structure has been insured by that insurer or an  
994 affiliated insurer for at least a 5-year period immediately  
995 prior to the date of the written notice.

996 2. When cancellation is for nonpayment of premium, at least  
997 10 days' written notice of cancellation accompanied by the  
998 reason therefor must ~~shall~~ be given. As used in this  
999 subparagraph, the term "nonpayment of premium" means failure of  
1000 the named insured to discharge when due any of her or his  
1001 obligations in connection with the payment of premiums on a  
1002 policy or any installment of such premium, whether the premium  
1003 is payable directly to the insurer or its agent or indirectly  
1004 under any premium finance plan or extension of credit, or  
1005 failure to maintain membership in an organization if such  
1006 membership is a condition precedent to insurance coverage.  
1007 "Nonpayment of premium" also means the failure of a financial  
1008 institution to honor an insurance applicant's check after  
1009 delivery to a licensed agent for payment of a premium, even if  
1010 the agent has previously delivered or transferred the premium to  
1011 the insurer. If a dishonored check represents the initial  
1012 premium payment, the contract and all contractual obligations  
1013 are ~~shall be~~ void ab initio unless the nonpayment is cured



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1014 within the earlier of 5 days after actual notice by certified  
1015 mail is received by the applicant or 15 days after notice is  
1016 sent to the applicant by certified mail or registered mail, and  
1017 if the contract is void, any premium received by the insurer  
1018 from a third party must ~~shall~~ be refunded to that party in full.

1019 3. When such cancellation or termination occurs during the  
1020 first 90 days during which the insurance is in force and the  
1021 insurance is canceled or terminated for reasons other than  
1022 nonpayment of premium, at least 20 days' written notice of  
1023 cancellation or termination accompanied by the reason therefor  
1024 must ~~shall~~ be given except if ~~where~~ there has been a material  
1025 misstatement or misrepresentation or failure to comply with the  
1026 underwriting requirements established by the insurer.

1027 4. The requirement for providing written notice of  
1028 nonrenewal by June 1 of any nonrenewal that would be effective  
1029 between June 1 and November 30 does not apply to the following  
1030 situations, but the insurer remains subject to the requirement  
1031 to provide such notice at least 100 days before ~~prior to~~ the  
1032 effective date of nonrenewal:

1033 a. A policy that is nonrenewed due to a revision in the  
1034 coverage for sinkhole losses and catastrophic ground cover  
1035 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~  
1036 ~~2007-1, Laws of Florida.~~

1037 b. A policy that is nonrenewed by Citizens Property  
1038 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
1039 that has been assumed by an authorized insurer offering  
1040 replacement or renewal coverage to the policyholder.

1041  
1042 After the policy has been in effect for 90 days, the policy may



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1043 ~~shall~~ not be canceled by the insurer except if ~~when~~ there has  
1044 been a material misstatement, a nonpayment of premium, a failure  
1045 to comply with underwriting requirements established by the  
1046 insurer within 90 days of the date of effectuation of coverage,  
1047 or a substantial change in the risk covered by the policy or if  
1048 ~~when~~ the cancellation is for all insureds under such policies  
1049 for a given class of insureds. This paragraph does not apply to  
1050 individually rated risks having a policy term of less than 90  
1051 days.

1052 5. Notwithstanding any other provision of law, an insurer  
1053 may cancel or nonrenew a property insurance policy upon a  
1054 minimum of 45 days' notice if the office finds that the early  
1055 cancellation of some or all of the insurer's policies is  
1056 necessary to protect the best interests of the public or  
1057 policyholders and the office approves the insurer's plan for  
1058 early cancellation or nonrenewal of some or all of its policies.  
1059 The office may base such a finding upon the financial condition  
1060 of the insurer, lack of adequate reinsurance coverage for  
1061 hurricane risk, or other relevant factors. The office may  
1062 condition its finding on the consent of the insurer to be placed  
1063 in administrative supervision pursuant to s. 624.81 or consent  
1064 to the appointment of a receiver under chapter 631.

1065 (c) If the insurer fails to provide the notice required by  
1066 this subsection, other than the 10-day notice, the coverage  
1067 provided to the named insured shall remain in effect until the  
1068 effective date of replacement coverage or until the expiration  
1069 of a period of days after the notice is given equal to the  
1070 required notice period, whichever occurs first. The premium for  
1071 the coverage shall remain the same during any such extension



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1072 period except that, in the event of failure to provide notice of  
1073 nonrenewal, if the rate filing then in effect would have  
1074 resulted in a premium reduction, the premium during such  
1075 extension must ~~shall~~ be calculated based on the later rate  
1076 filing.

1077 (d)1. Upon a declaration of an emergency pursuant to s.  
1078 252.36 and the filing of an order by the Commissioner of  
1079 Insurance Regulation, an insurer may not cancel or nonrenew a  
1080 personal residential or commercial residential property  
1081 insurance policy covering a dwelling or residential property  
1082 located in this state which has been damaged as a result of a  
1083 hurricane or wind loss that is the subject of the declaration of  
1084 emergency for a period of 90 days after the dwelling or  
1085 residential property has been repaired. A structure is deemed to  
1086 be repaired when substantially completed and restored to the  
1087 extent that it is insurable by another authorized insurer that  
1088 is writing policies in this state.

1089 2. However, an insurer or agent may cancel or nonrenew such  
1090 a policy before ~~prior to~~ the repair of the dwelling or  
1091 residential property:

1092 a. Upon 10 days' notice for nonpayment of premium; or

1093 b. Upon 45 days' notice:

1094 (I) For a material misstatement or fraud related to the  
1095 claim;

1096 (II) If the insurer determines that the insured has  
1097 unreasonably caused a delay in the repair of the dwelling; or

1098 (III) If the insurer has paid policy limits.

1099 3. If the insurer elects to nonrenew a policy covering a  
1100 property that has been damaged, the insurer shall provide at



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1101 least 90 days' notice to the insured that the insurer intends to  
1102 nonrenew the policy 90 days after the dwelling or residential  
1103 property has been repaired. Nothing in this paragraph shall  
1104 prevent the insurer from canceling or nonrenewing the policy 90  
1105 days after the repairs are complete for the same reasons the  
1106 insurer would otherwise have canceled or nonrenewed the policy  
1107 but for the limitations of subparagraph 1. The Financial  
1108 Services Commission may adopt rules, and the Commissioner of  
1109 Insurance Regulation may issue orders, necessary to implement  
1110 this paragraph.

1111 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal  
1112 residential and commercial residential policies covering  
1113 property that was damaged as the result of Tropical Storm  
1114 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or  
1115 Hurricane Jeanne.

1116 (e) If any cancellation or nonrenewal of a policy subject  
1117 to this subsection is to take effect during the duration of a  
1118 hurricane as defined in s. 627.4025(2)(c), the effective date of  
1119 such cancellation or nonrenewal is extended until the end of the  
1120 duration of such hurricane. The insurer may collect premium at  
1121 the prior rates or the rates then in effect for the period of  
1122 time for which coverage is extended. This paragraph does not  
1123 apply to any property with respect to which replacement coverage  
1124 has been obtained and which is in effect for a claim occurring  
1125 during the duration of the hurricane.

1126 Section 6. Section 627.7011, Florida Statutes, is amended  
1127 to read:

1128 627.7011 Homeowners' policies; offer of replacement cost  
1129 coverage and law and ordinance coverage.—



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1130           (1) ~~Before~~ Prior to issuing or renewing a homeowner's  
1131 insurance policy ~~on or after October 1, 2005, or prior to the~~  
1132 ~~first renewal of a homeowner's insurance policy on or after~~  
1133 ~~October 1, 2005,~~ the insurer must offer each of the following:

1134           (a) A policy or endorsement providing that any loss, except  
1135 for the loss of a roof that is more than 20 years old, which is  
1136 repaired or replaced will be adjusted on the basis of  
1137 replacement costs not exceeding policy limits as to the  
1138 dwelling, rather than actual cash value, but not including costs  
1139 necessary to meet applicable laws and ordinances regulating the  
1140 construction, use, or repair of any property or requiring the  
1141 tearing down of any property, including the costs of removing  
1142 debris.

1143           (b) A policy or endorsement providing that, subject to  
1144 other policy provisions, any loss, except for the loss of a roof  
1145 that is more than 20 years old, which is repaired or replaced at  
1146 any location will be adjusted on the basis of replacement costs  
1147 not exceeding policy limits as to the dwelling, rather than  
1148 actual cash value, and also including costs necessary to meet  
1149 applicable laws and ordinances regulating the construction, use,  
1150 or repair of any property or requiring the tearing down of any  
1151 property, including the costs of removing debris. ~~+~~ However, such  
1152 additional costs necessary to meet applicable laws and  
1153 ordinances may be limited to either 25 percent or 50 percent of  
1154 the dwelling limit, as selected by the policyholder, and such  
1155 coverage shall apply only to repairs of the damaged portion of  
1156 the structure unless the total damage to the structure exceeds  
1157 50 percent of the replacement cost of the structure.

1158



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1159 An insurer is not required to make the offers required by this  
1160 subsection with respect to the issuance or renewal of a  
1161 homeowner's policy that contains the provisions specified in  
1162 paragraph (b) for law and ordinance coverage limited to 25  
1163 percent of the dwelling limit, except that the insurer must  
1164 offer the law and ordinance coverage limited to 50 percent of  
1165 the dwelling limit. This subsection does not prohibit the offer  
1166 of a guaranteed replacement cost policy.

1167 (2) Unless the insurer obtains the policyholder's written  
1168 refusal of the policies or endorsements specified in subsection  
1169 (1), any policy covering the dwelling is deemed to include the  
1170 law and ordinance coverage limited to 25 percent of the dwelling  
1171 limit. The rejection or selection of alternative coverage shall  
1172 be made on a form approved by the office. The form shall fully  
1173 advise the applicant of the nature of the coverage being  
1174 rejected. If this form is signed by a named insured, it will be  
1175 conclusively presumed that there was an informed, knowing  
1176 rejection of the coverage or election of the alternative  
1177 coverage on behalf of all insureds. Unless the policyholder  
1178 requests in writing the coverage specified in this section, it  
1179 need not be provided in or supplemental to any other policy that  
1180 renews, insures, extends, changes, supersedes, or replaces an  
1181 existing policy when the policyholder has rejected the coverage  
1182 specified in this section or has selected alternative coverage.  
1183 The insurer must provide such policyholder with notice of the  
1184 availability of such coverage in a form approved by the office  
1185 at least once every 3 years. The failure to provide such notice  
1186 constitutes a violation of this code, but does not affect the  
1187 coverage provided under the policy.



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1188           (3) ~~(a) If In the event of a loss occurs~~ for which a  
1189 dwelling ~~or personal property~~ is insured on the basis of  
1190 replacement costs, the insurer initially must ~~shall~~ pay at least  
1191 the actual cash value of the loss, and must pay the ~~replacement~~  
1192 ~~cost without~~ reservation or holdback of any depreciation in  
1193 value if the insured executes a contract to replace or repair,  
1194 ~~whether or not the insured replaces or repairs~~ the dwelling or  
1195 property. The insurer must explain this process clearly in its  
1196 contract.

1197           (b) If a loss occurs for which personal property is insured  
1198 on the basis of replacement costs, the insurer may limit its  
1199 initial payment to the greater of the actual cash value or 50  
1200 percent of the replacement cost value and must pay the  
1201 reservation or holdback upon the insured providing a receipt for  
1202 the replaced property. The insurer must explain this process  
1203 clearly in its contract.

1204           (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed on~~  
1205 ~~or after October 1, 2005,~~ must include in bold type no smaller  
1206 than 18 points the following statement:

1207  
1208           "LAWS AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE  
1209 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO  
1210 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE  
1211 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS  
1212 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE  
1213 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

1214 The intent of this subsection is to encourage policyholders to  
1215 purchase sufficient coverage to protect them in case events  
1216 excluded from the standard homeowners policy, such as law and



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1217 ordinance enforcement and flood, combine with covered events to  
1218 produce damage or loss to the insured property. The intent is  
1219 also to encourage policyholders to discuss these issues with  
1220 their insurance agent.

1221 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~  
1222 apply to policies not considered to be "homeowners' policies,"  
1223 as that term is commonly understood in the insurance industry.  
1224 This section specifically does not apply to mobile home  
1225 policies. ~~Nothing in~~ This section does not limit ~~shall be~~  
1226 ~~construed as limiting~~ the ability of any insurer to reject or  
1227 nonrenew any insured or applicant on the grounds that the  
1228 structure does not meet underwriting criteria applicable to  
1229 replacement cost or law and ordinance policies or for other  
1230 lawful reasons.

1231 (6) This section does not prohibit an insurer from limiting  
1232 its liability under a policy or endorsement providing that loss  
1233 will be adjusted on the basis of replacement costs to the lesser  
1234 of:

1235 (a) The limit of liability shown on the policy declarations  
1236 page;

1237 (b) The reasonable and necessary cost to repair the  
1238 damaged, destroyed, or stolen covered property; or

1239 (c) The reasonable and necessary cost to replace the  
1240 damaged, destroyed, or stolen covered property.

1241 (7) This section does not prohibit an insurer from  
1242 exercising its right to repair damaged property in compliance  
1243 with its policy and s. 627.702(7).

1244 Section 7. Section 627.7015, Florida Statutes, is amended  
1245 to read:



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1246           627.7015 Alternative procedure for resolution of disputed  
1247 property insurance claims.—

1248           (1) ~~PURPOSE AND SCOPE.~~—This section sets forth a  
1249 nonadversarial alternative dispute resolution procedure for a  
1250 mediated claim resolution conference prompted by the need for  
1251 effective, fair, and timely handling of property insurance  
1252 claims. There is a particular need for an informal,  
1253 nonthreatening forum for helping parties who elect this  
1254 procedure to resolve their claims disputes because most  
1255 homeowner's and commercial residential insurance policies  
1256 obligate insureds to participate in a potentially expensive and  
1257 time-consuming adversarial appraisal process before ~~prior to~~  
1258 litigation. The procedure set forth in this section is designed  
1259 to bring the parties together for a mediated claims settlement  
1260 conference without any of the trappings or drawbacks of an  
1261 adversarial process. Before resorting to these procedures,  
1262 insureds and insurers are encouraged to resolve claims as  
1263 quickly and fairly as possible. This section is available with  
1264 respect to claims under personal lines and commercial  
1265 residential policies for all claimants and insurers prior to  
1266 commencing the appraisal process, or commencing litigation. If  
1267 requested by the insured, participation by legal counsel shall  
1268 be permitted. Mediation under this section is also available to  
1269 litigants referred to the department by a county court or  
1270 circuit court. This section does not apply to commercial  
1271 coverages, to private passenger motor vehicle insurance  
1272 coverages, or to disputes relating to liability coverages in  
1273 policies of property insurance.

1274           (2) At the time a first-party claim dispute within the



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1275 scope of this section is filed, the insurer shall notify all  
1276 first-party claimants of their right to participate in the  
1277 mediation program under this section. The department shall  
1278 prepare a statement or information relating to the mediation  
1279 program which an insurer must include in the notice. The content  
1280 of the statement or information must be adopted by rule of the  
1281 department consumer information pamphlet for distribution to  
1282 persons participating in mediation under this section.

1283 (3) The costs of mediation shall be reasonable, and the  
1284 insurer shall bear all of the cost of conducting mediation  
1285 conferences, except as otherwise provided in this section. If an  
1286 insured fails to appear at the conference, the conference shall  
1287 be rescheduled upon the insured's payment of the costs of a  
1288 rescheduled conference. If the insurer fails to appear at the  
1289 conference, the insurer shall pay the insured's actual cash  
1290 expenses incurred in attending the conference if the insurer's  
1291 failure to attend was not due to a good cause acceptable to the  
1292 department. An insurer will be deemed to have failed to appear  
1293 if the insurer's representative lacks authority to settle the  
1294 full value of the claim. The insurer shall incur an additional  
1295 fee for a rescheduled conference necessitated by the insurer's  
1296 failure to appear at a scheduled conference. The fees assessed  
1297 by the administrator shall include a charge necessary to defray  
1298 the expenses of the department related to its duties under this  
1299 section and shall be deposited in the Insurance Regulatory Trust  
1300 Fund.

1301 (4) In a dispute over the cost to replace or repair insured  
1302 property, the insurer and insured shall each provide  
1303 documentation to the mediator which supports his or her estimate



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1304 to repair or replace the property. The documentation must be  
1305 provided before the beginning of the mediation conference. The  
1306 insurer's documentation must include its reports or other  
1307 evidence relating to the loss and show that the insurer's  
1308 estimates were created in compliance with s. 626.9744(3). The  
1309 insured must submit quotes obtained from licensed contractors in  
1310 the local market area, retail price quotes for products and  
1311 materials, or other documentation specific to the loss which  
1312 clearly documents the actual cost to repair or replace the  
1313 property.

1314 (5)~~(4)~~ The department shall adopt by rule a property  
1315 insurance mediation program to be administered by the department  
1316 or its designee. The department may also adopt special rules  
1317 that ~~which~~ are applicable in cases of an emergency within the  
1318 state. The rules shall be modeled after practices and procedures  
1319 set forth in mediation rules of procedure adopted by the Supreme  
1320 Court. The rules shall provide for:

1321 (a) Reasonable requirement for processing and scheduling of  
1322 requests for mediation.

1323 (b) Qualifications of mediators as provided in s. 627.745  
1324 and in the Florida Rules of Certified and Court Appointed  
1325 Mediators, and for such other individuals as are qualified by  
1326 education, training, or experience as the department determines  
1327 to be appropriate.

1328 (c) Provisions governing who may attend mediation  
1329 conferences.

1330 (d) Selection of mediators.

1331 (e) Criteria for the conduct of mediation conferences.

1332 (f) Right to legal counsel.



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1333       (g) The types of documentation required to be submitted  
1334 during the mediation process.

1335       ~~(6)(5)~~ All statements made and documents produced at a  
1336 mediation conference shall be deemed to be settlement  
1337 negotiations in anticipation of litigation within the scope of  
1338 s. 90.408. All parties to the mediation must negotiate in good  
1339 faith and must have the authority to immediately settle the  
1340 claim. Mediators are deemed to be agents of the department and  
1341 shall have the immunity from suit provided in s. 44.107.

1342       ~~(7)(6)~~ Mediation is nonbinding. ~~+~~ However, if a written  
1343 settlement is reached, the insured has 3 business days within  
1344 which the insured may rescind the settlement unless the insured  
1345 has cashed or deposited any check or draft disbursed to the  
1346 insured for the disputed matters as a result of the conference.  
1347 If a settlement agreement is reached and is not rescinded, it  
1348 shall be binding and act as a release of all specific claims  
1349 that were presented in that mediation conference.

1350       ~~(8)(7)~~ If the insurer fails to comply with subsection (2)  
1351 by failing to notify a first-party claimant of its right to  
1352 participate in the mediation program under this section or if  
1353 the insurer requests the mediation, and the mediation results  
1354 are rejected by either party, the insured may ~~shall~~ not be  
1355 required to submit to or participate in any contractual loss  
1356 appraisal process of the property loss damage as a precondition  
1357 to legal action for breach of contract against the insurer for  
1358 its failure to pay the policyholder's claims covered by the  
1359 policy.

1360       ~~(9)(8)~~ The department may designate an entity or person to  
1361 serve as administrator to carry out any of the provisions of



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1362 this section and may take this action by means of a written  
1363 contract or agreement.

1364 (10)~~(9)~~ As used in ~~For purposes of~~ this section, the term  
1365 "claim dispute" refers to any dispute between an insurer and an  
1366 insured relating to a material issue of fact other than a  
1367 dispute:

1368 (a) With respect to which the insurer has a reasonable  
1369 basis to suspect fraud;

1370 (b) Where, based on agreed-upon facts as to the cause of  
1371 loss, there is no coverage under the policy;

1372 (c) With respect to which the insurer has a reasonable  
1373 basis to believe that the claimant has intentionally made a  
1374 material misrepresentation of fact which is relevant to the  
1375 claim, and the entire request for payment of a loss has been  
1376 denied on the basis of the material misrepresentation; ~~or~~

1377 (d) With respect to which the amount in controversy is less  
1378 than \$500, unless the parties agree to mediate a dispute  
1379 involving a lesser amount; or.

1380 (e) With respect to which the date of loss occurred more  
1381 than 5 years before the request for mediation, unless the  
1382 parties agree to mediate a dispute involving a longer period.

1383 Section 8. Subsection (1) of section 631.011, Florida  
1384 Statutes, is amended to read:

1385 631.011 Definitions.—For the purpose of this part, the  
1386 term:

1387 (1) "Affiliate" means any entity that ~~which~~ exercises  
1388 control over or is controlled by the insurer, directly or  
1389 indirectly through:

1390 (a) Equity ownership of voting securities;



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- 1391 (b) Common managerial control; ~~or~~  
1392 (c) Collusive participation by the management of the  
1393 insurer and affiliate in the management of the insurer or the  
1394 affiliate; ~~or-~~  
1395 (d) Retailing, brokering, administering, or underwriting  
1396 insurance policies on behalf of the insurer, including, without  
1397 limitation, managing general agents, claims administrators,  
1398 third-party administrators, retail agents, premium finance  
1399 managers, billing services agents, or any other entity of  
1400 similar function and participation in the collection, retention,  
1401 or disbursement of insurance premiums.

1402 Section 9. Section 631.021, Florida Statutes, is amended to  
1403 read:

1404 631.021 Jurisdiction of delinquency proceeding; venue;  
1405 change of venue; exclusiveness of remedy; appeal.—

1406 (1) The circuit court has ~~shall have~~ original jurisdiction  
1407 of any delinquency proceeding under this chapter, and any court  
1408 with jurisdiction is authorized to make all necessary or proper  
1409 orders to carry out the purposes of this chapter. Any  
1410 delinquency proceeding in this chapter is in equity.

1411 (2) The venue of a delinquency proceeding or summary  
1412 proceeding against a domestic, foreign, or alien insurer is  
1413 ~~shall be~~ in the Circuit Court of Leon County. The Circuit Court  
1414 of Leon County is also the venue for any collateral actions  
1415 against an insurer's affiliate, including, but not limited to,  
1416 voidable or fraudulent transfers made by an insurer or  
1417 affiliate; actions that constitute a breach of fiduciary duty by  
1418 an officer, director, or agent; or misreporting or  
1419 misrepresenting what is property, funds, or assets of the



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1420 insurer, including premium and unearned commissions.

1421 (3) A delinquency proceeding pursuant to this chapter  
1422 constitutes the sole and exclusive method of liquidating,  
1423 rehabilitating, reorganizing, or conserving an insurer. ~~A No~~  
1424 court may not shall entertain a petition for the commencement of  
1425 such a proceeding unless the petition has been filed in the name  
1426 of the state on the relation of the department. The Florida  
1427 Insurance Guaranty Association, Incorporated, the Florida  
1428 Workers' Compensation Insurance Guaranty Association,  
1429 Incorporated, and the Florida Life and Health Guaranty  
1430 Association, Incorporated, shall be given reasonable written  
1431 notice by the department of all hearings which pertain to an  
1432 adjudication of insolvency of a member insurer.

1433 (4) An appeal shall lie to the District Court of Appeal,  
1434 First District, from an order granting or refusing  
1435 rehabilitation, liquidation, or conservation and from every  
1436 order in a delinquency proceeding having the character of a  
1437 final order as to the particular portion of the proceeding  
1438 embraced therein.

1439 (5) ~~A No~~ service of process against the department in its  
1440 capacity as receiver is not shall be effective unless served  
1441 upon a person designated by the receiver and filed with the  
1442 circuit court having jurisdiction over the delinquency  
1443 proceeding. The designated person shall refuse to accept service  
1444 if acceptance would violate a stay against legal proceedings  
1445 involving an insurer that is the subject of delinquency  
1446 proceedings or would violate any orders of the circuit court  
1447 governing a delinquency proceeding. The person denied service  
1448 may petition the circuit court having jurisdiction over the



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1449 delinquency proceeding for relief from the receiver's refusal to  
1450 accept service. This subsection shall be strictly construed, and  
1451 any purported service on the receiver or the department which  
1452 ~~that~~ is not in accordance with this subsection is ~~shall be null~~  
1453 ~~and~~ void.

1454 (6) The domiciliary court acquiring jurisdiction over  
1455 persons subject to this chapter may exercise exclusive  
1456 jurisdiction to the exclusion of all other courts, except as  
1457 limited by the provisions of this chapter. Upon the issuance of  
1458 an order of conservation, rehabilitation, or liquidation, the  
1459 Circuit Court of Leon County shall have exclusive jurisdiction  
1460 with respect to assets or property of any insurer subject to  
1461 such proceedings and claims against said insurer's assets or  
1462 property. Further, the Circuit Court of Leon County has  
1463 exclusive jurisdiction to determine and identify the funds,  
1464 assets, and property belonging to an entity placed in  
1465 receivership under this chapter. Funds, assets, and property  
1466 under this section include, but are not limited to, premiums,  
1467 unearned commissions or other unearned agent compensation, and  
1468 transfers deemed to be fraudulent or voidable made by an insurer  
1469 or affiliate. This exclusive jurisdiction preempts the  
1470 jurisdiction of federal courts, including bankruptcy courts, if  
1471 the funds, assets, or property of the entity placed in  
1472 receivership under this chapter is disputed or is at issue.

1473 Section 10. Section 631.025, Florida Statutes, is amended  
1474 to read:

1475 631.025 Persons subject to this part.—Delinquency  
1476 proceedings authorized by this part may be initiated against any  
1477 insurer, as defined in s. 631.011(15), if the statutory grounds



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1478 are present as to that insurer, and the court may exercise  
1479 exclusive jurisdiction over any affiliate, as defined in s.  
1480 631.011, or any person required to cooperate with the department  
1481 and office pursuant to s. 631.391 and over all persons made  
1482 subject to the court's jurisdiction by other provisions of law.  
1483 In addition to insurers and affiliates, the court also retains  
1484 exclusive jurisdiction over the following categories of ~~Such~~  
1485 persons ~~include, but are not limited to:~~

1486 (1) A person transacting, or that has transacted, insurance  
1487 business in or from this state and against whom claims arising  
1488 from that business may exist now or in the future.

1489 (2) A person purporting to transact an insurance business  
1490 in this state and any person who acts as an insurer, transacts  
1491 insurance, or otherwise engages in insurance activities in or  
1492 from this state, with or without a certificate of authority or  
1493 proper authority from the department or office, against whom  
1494 claims arising from that business may exist now or in the  
1495 future.

1496 (3) An insurer with policyholders resident in this state.

1497 (4) An affiliate of an insurer that files for bankruptcy  
1498 relief during the 6 months immediately preceding the  
1499 commencement of the affiliated insurer's delinquency proceedings  
1500 or any time after the affiliated insurer's delinquency  
1501 proceedings.

1502 (5) ~~(4)~~ All other persons organized or in the process of  
1503 organizing with the intent to transact an insurance business in  
1504 this state.

1505 Section 11. This act shall take effect July 1, 2010.

1506